

104TH CONGRESS  
1ST SESSION

# S. 814

To provide for the reorganization of the Bureau of Indian Affairs, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 15), 1995

Mr. MCCAIN (for himself, Mr. INOUE, and Mr. DOMENICI) introduced the  
following bill; which was read twice and referred to the Committee on In-  
dian Affairs

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## A BILL

To provide for the reorganization of the Bureau of Indian  
Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS, AND DEFINI-**  
4 **NITIONS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Bureau of Indian Affairs Reorganization Act of 1995”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title, definitions, and table of contents.

TITLE I—REORGANIZATION COMPACTS

- Sec. 101. Reorganization of area offices.
- Sec. 102. Reorganization of agency offices.
- Sec. 103. Reorganization of central office.
- Sec. 104. Savings provisions.
- Sec. 105. Additional conforming amendments.
- Sec. 106. Authorization of appropriations.
- Sec. 107. Effective date.
- Sec. 108. Separability.
- Sec. 109. Suspension of certain administrative actions.
- Sec. 110. Statutory construction.

## TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT

- Sec. 201. Budget development.

## TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

- Sec. 301. BIA Manual.
- Sec. 302. Task force.
- Sec. 303. Authorization of appropriations.

1       (c) DEFINITIONS.—For purposes of this Act, the fol-  
2       lowing definitions shall apply:

3           (1) AREA OFFICE.—The term “area office”  
4       means 1 of the 12 area offices of the Bureau of In-  
5       dian Affairs.

6           (2) AREA OFFICE PLAN.—The term “area office  
7       plan” means a plan for the reorganization of an area  
8       office negotiated by the Secretary and Indian tribes  
9       pursuant to section 101.

10          (3) AGENCY OFFICE.—The term “agency of-  
11       fice” means an agency office of the Bureau of In-  
12       dian Affairs.

13          (4) AGENCY OFFICE PLAN.—The term “agency  
14       office plan” means a plan for the reorganization of

1 an agency office negotiated by the Secretary and In-  
2 dian tribes pursuant to section 102.

3 (5) BIA MANUAL.—The term “BIA Manual”  
4 means the most recent edition of the Bureau of In-  
5 dian Affairs Manual issued by the Department of  
6 the Interior.

7 (6) BUREAU.—The term “Bureau” means the  
8 Bureau of Indian Affairs.

9 (7) CENTRAL OFFICE.—The term “central of-  
10 fice” means the central office of the Bureau, that is  
11 housed in the offices of the Department in Washing-  
12 ton, D.C. and in Albuquerque, New Mexico.

13 (8) CENTRAL OFFICE PLAN.—The term  
14 “central office plan” means the plan for the reorga-  
15 nization of the central office negotiated by the Sec-  
16 retary and Indian tribes pursuant to section 103.

17 (9) DEPARTMENT.—The term “Department”  
18 means the Department of the Interior.

19 (10) DIRECTOR.—The term “Director” means,  
20 with respect to an area office, the Director of the  
21 area office.

22 (11) FUNCTION.—The term “function” means  
23 any duty, obligation, power, authority, responsibility,  
24 right, privilege, activity, or program.

1           (12) INDIAN TRIBE.—The term “Indian tribe”  
 2           has the same meaning as in section 4(e) of the In-  
 3           dian Self-Determination and Education Assistance  
 4           Act (25 U.S.C. 450b(e)).

5           (13) SECRETARY.—The term “Secretary”  
 6           means the Secretary of the Interior.

7           (14) SUPERINTENDENT.—The term “Super-  
 8           intendent” means the Superintendent of an agency  
 9           office.

10          (15) TRIBAL PRIORITY ALLOCATION AC-  
 11          COUNT.—The term “tribal priority allocation ac-  
 12          count”, means an account so designated by the Bu-  
 13          reau, with respect to which program priorities and  
 14          funding levels are established by individual Indian  
 15          tribes.

16          (16) TRIBAL RECURRING BASE FUNDING.—The  
 17          term “tribal recurring base funding” means recur-  
 18          ring base funding (as defined and determined by the  
 19          Secretary) for the tribal priority allocation accounts  
 20          of an Indian tribe allocated to a tribe by the Bureau.

## 21           **TITLE I—REORGANIZATION** 22           **COMPACTS**

### 23   **SEC. 101. REORGANIZATION OF AREA OFFICES.**

24          (a) IN GENERAL.—Notwithstanding any other provi-  
 25          sion of law, not later than 120 days after the date of en-

1 actment of this Act, the Secretary shall enter into negotia-  
2 tions with the Indian tribes served by each area office to  
3 prepare a reorganization plan for the area office.

4 (b) CONTENTS OF AREA OFFICE PLANS.—

5 (1) IN GENERAL.—Each area office plan that is  
6 prepared pursuant to this subsection shall provide  
7 for the organization of the area office covered under  
8 the plan. To the extent that the majority of Indian  
9 tribes served by the area office do not exercise the  
10 option to maintain current organizational structures,  
11 functions, or funding priorities pursuant to para-  
12 graph (2), the reorganization plan shall provide,  
13 with respect to the area office covered under the  
14 plan, for—

15 (A) the reorganization of the administra-  
16 tive structure of the area office;

17 (B) the reallocation of personnel (including  
18 determinations of office size and functions);

19 (C) the delegation of authority of the Sec-  
20 retary to the Director;

21 (D) transfers of functions;

22 (E) the specification of functions—

23 (i) retained by the Bureau; or

24 (ii) transferred to Indian tribes served  
25 by the area office;

1 (F) the issuance of waivers or other au-  
2 thorities by the Secretary so that functions and  
3 other responsibilities of the Secretary may be  
4 carried out by the area office or transferred to  
5 Indian tribes;

6 (G) the promulgation of revised regulations  
7 relating to the functions of the area office that  
8 are performed by the area office or transferred  
9 to Indian tribes;

10 (H) the reordering of funding priorities;  
11 and

12 (I) a formula for the transfer, to the tribal  
13 recurring base funding for each Indian tribe  
14 served by the area office, of unexpended bal-  
15 ances of appropriations and other Federal  
16 funds made available to the area office in con-  
17 nection with any function transferred to Indian  
18 tribes pursuant to subparagraph (E)(ii).

19 (2) SHARE OF FUNDING.—An area office plan  
20 may include, for each Indian tribe served by the area  
21 office, a determination of the share of the Indian  
22 tribe of the funds used by the area office to carry  
23 out programs, services, functions and activities of  
24 the tribe (referred to in this subsection as the “trib-  
25 al share”).

1           (3) OPTION OF MAINTENANCE OF CURRENT  
2 STATUS.—At the option of a majority of the Indian  
3 tribes served by an area office, a reorganization plan  
4 may provide for the continuation of organizational  
5 structures, functions, or funding priorities of the  
6 area office that are substantially similar to those in  
7 effect at the time of the development of the area of-  
8 fice plan.

9           (4) APPROVAL OF AREA OFFICE PLAN BY IN-  
10 DIAN TRIBES.—Upon completion of the negotiation  
11 of an area office plan, the Secretary shall submit the  
12 plan to the Indian tribes served by the area office  
13 for approval. If a majority of the Indian tribes ap-  
14 prove the area office plan by a tribal resolution pur-  
15 suant to the applicable procedures established by the  
16 Indian tribes, the Secretary shall enter into a reor-  
17 ganization compact pursuant to subsection (c).

18           (5) SINGLE TRIBE AREA OFFICE.—In an area  
19 office that serves only 1 Indian tribe, if the tribe  
20 elects to develop a reorganization plan for the area  
21 office, the Secretary shall enter into negotiations  
22 with the tribe to prepare a reorganization plan for  
23 the area office. Not later than 60 days after the date  
24 on which a reorganization plan referred to in the  
25 preceding sentence is approved by the Indian tribe,

1 the Secretary shall enter into a reorganization com-  
2 pact with the tribe to carry out the area office plan.

3 (6) OPTION TO TAKE TRIBAL SHARE.—

4 (A) IN GENERAL.—If a majority of the In-  
5 dian tribes served by an area office fail to ap-  
6 prove an area office plan, an Indian tribe may  
7 elect to receive directly the tribal share of the  
8 Indian tribe.

9 (B) DETERMINATION OF TRIBAL SHARE.—  
10 If an Indian tribe elects to receive a tribal share  
11 under subparagraph (A), the Secretary shall  
12 enter into negotiations with the Indian tribe to  
13 determine the tribal share of the Indian tribe.

14 (C) AGREEMENT.—Upon the determina-  
15 tion of a tribal share of an Indian tribe under  
16 subparagraph (B), the Secretary shall enter  
17 into an agreement with the Indian tribe for  
18 transferring directly to the Indian tribe an  
19 amount equal to the tribal share. The agree-  
20 ment shall include—

21 (i) a determination of the amount of  
22 residual Federal funds to be retained by  
23 the Secretary for the area office; and

24 (ii) the responsibilities of—

25 (I) the area office; and

1 (II) the Indian tribe.

2 (c) AREA OFFICE REORGANIZATION COMPACT.—

3 (1) IN GENERAL.—Not later than 60 days after  
4 the date on which a majority of the Indian tribes  
5 served by the area office that is the subject of a re-  
6 organization plan have approved the plan pursuant  
7 to subsection (b)(3), the Secretary shall enter into  
8 an area office reorganization compact with the In-  
9 dian tribes to carry out the area office plan (referred  
10 to in this subsection as the “area office reorganiza-  
11 tion compact”). The Secretary may not implement  
12 the area office plan until such time as the Indian  
13 tribes have entered into an area office reorganization  
14 compact with the Secretary pursuant to this para-  
15 graph. If the Indian tribes do not enter into an area  
16 office reorganization compact with the Secretary  
17 pursuant to this paragraph, the organizational struc-  
18 ture, functions, and funding priorities of the area of-  
19 fice in effect at the time of the development of the  
20 area office plan shall remain in effect.

21 (2) PROHIBITION AGAINST CERTAIN LIMITA-  
22 TIONS.—With respect to an Indian tribe that is not  
23 a party to an area office reorganization compact en-  
24 tered into by the Secretary under this subsection,  
25 nothing in this section may limit or reduce the level

1 of any service or funding that the Indian tribe is en-  
2 titled to pursuant to applicable Federal law (includ-  
3 ing any contract that the Indian tribe is entitled to  
4 enter into pursuant to applicable Federal law).

5 **SEC. 102. REORGANIZATION OF AGENCY OFFICES.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
7 sion of law, not later than 120 days after the date of en-  
8 actment of this Act, the Secretary, acting through the Su-  
9 perintendent (or a designee of the Superintendent) of each  
10 agency office, shall enter into negotiations with the Indian  
11 tribes served by each agency office to prepare an agency  
12 office plan for each agency office.

13 (b) CONTENTS OF AGENCY OFFICE PLANS.—

14 (1) IN GENERAL.—Each agency office plan that  
15 is prepared by the Secretary pursuant to this sub-  
16 section shall provide for the organization of the  
17 agency office covered under the plan. To the extent  
18 that the majority of Indian tribes served by the  
19 agency office do not exercise the option to maintain  
20 current organizational structures, functions, or fund-  
21 ing priorities pursuant to paragraph (2), the agency  
22 office plan shall provide, with respect to the agency  
23 office covered under the agency office plan, for—

24 (A) the reorganization of the administra-  
25 tive structure of the agency office;

1 (B) the reallocation of personnel (including  
2 determinations of office size and functions);

3 (C) the delegation of authority of the Sec-  
4 retary to the Superintendent;

5 (D) transfers of functions;

6 (E) the specification of functions—

7 (i) retained by the Bureau; or

8 (ii) transferred to Indian tribes served  
9 by the agency office;

10 (F) the issuance of waivers or other au-  
11 thorities by the Secretary so that functions and  
12 other responsibilities of the Secretary may be  
13 carried out by the agency office or transferred  
14 to Indian tribes;

15 (G) the promulgation of revised regulations  
16 relating to the functions of the agency office  
17 that are carried by the agency office or trans-  
18 ferred to Indian tribes;

19 (H) the reordering of funding priorities;  
20 and

21 (I) a formula for the transfer, to the tribal  
22 recurring base funding for each Indian tribe  
23 served by the agency office, of unexpended bal-  
24 ances of appropriations and other Federal  
25 funds made available to the agency office in

1 connection with any function transferred to In-  
2 dian tribes pursuant to subparagraph (E)(ii).

3 (2) SHARE OF FUNDING.—An agency office  
4 plan may include, for each Indian tribe served by the  
5 agency office, a determination of the share of the In-  
6 dian tribe of the funds used by the agency office to  
7 carry out programs, services, functions and activities  
8 of the tribe (referred to in this subsection as the  
9 “tribal share”).

10 (3) OPTION OF MAINTENANCE OF CURRENT  
11 STATUS.—At the option of a majority of the Indian  
12 tribes served by an agency office, an agency office  
13 plan may provide for the continuation of organiza-  
14 tional structures, functions, or funding priorities of  
15 the agency office that are substantially similar to  
16 those in effect at the time of the development of the  
17 agency office plan.

18 (4) APPROVAL OF AGENCY OFFICE PLAN BY IN-  
19 DIAN TRIBES.—Upon completion of the negotiation  
20 of an agency office plan, the Secretary shall submit  
21 the agency office plan to the Indian tribes served by  
22 the agency office for approval. If a majority of the  
23 Indian tribes approve the agency office plan by a  
24 tribal resolution pursuant to the applicable proce-  
25 dures established by the Indian tribes, the Secretary

1 shall enter into a reorganization compact pursuant  
2 to subsection (c).

3 (5) SINGLE TRIBE AGENCY OFFICE.—In an  
4 agency office that serves only 1 Indian tribe, if the  
5 tribe elects to develop a reorganization plan for the  
6 agency office, the Secretary shall enter into negotia-  
7 tions with the tribe to prepare a reorganization plan  
8 for the agency office. Not later than 60 days after  
9 the date on which a reorganization plan referred to  
10 in the preceding sentence is approved by the Indian  
11 tribe, the Secretary shall enter into a reorganization  
12 compact with the tribe to carry out the agency office  
13 plan.

14 (6) OPTION TO TAKE TRIBAL SHARE.—

15 (A) IN GENERAL.—If a majority of the In-  
16 dian tribes served by an agency office fail to ap-  
17 prove an agency office plan, an Indian tribe  
18 may elect to receive directly the tribal share of  
19 the Indian tribe.

20 (B) DETERMINATION OF TRIBAL SHARE.—

21 If an Indian tribe elects to receive a tribal share  
22 under subparagraph (A), the Secretary shall  
23 enter into negotiations with the Indian tribe to  
24 determine the tribal share of the Indian tribe.

1 (C) AGREEMENT.—Upon the determina-  
2 tion of a tribal share of an Indian tribe under  
3 subparagraph (B), the Secretary shall enter  
4 into an agreement with the Indian tribe for  
5 transferring directly to the Indian tribe an  
6 amount equal to the tribal share. The agree-  
7 ment shall include—

8 (i) a determination of the amount of  
9 residual Federal funds to be retained by  
10 the Secretary for the agency office; and

11 (ii) the responsibilities of—

12 (I) the agency office; and

13 (II) the Indian tribe.

14 (c) AGENCY OFFICE REORGANIZATION COMPACTS.—

15 (1) IN GENERAL.—Not later than 60 days after  
16 the date on which a majority of the Indian tribes  
17 served by the agency office that is the subject of an  
18 agency office plan have approved the agency office  
19 plan pursuant to subsection (b)(3), the Secretary  
20 shall enter into a reorganization compact with the  
21 Indian tribes to carry out the agency office plan (re-  
22 ferred to in this subsection as the “agency office re-  
23 organization compact”). The Secretary may not im-  
24 plement the agency office plan until such time as the  
25 Indian tribes have entered into an agency office re-

1 organization compact with the Secretary pursuant to  
2 this paragraph. If the Indian tribes do not enter into  
3 an agency office reorganization compact with the  
4 Secretary pursuant to this paragraph, the organiza-  
5 tional structure, functions, and funding priorities of  
6 the agency office in effect at the time of the develop-  
7 ment of the agency office plan shall remain in effect.

8 (2) PROHIBITION AGAINST CERTAIN LIMITA-  
9 TIONS.—With respect to an Indian tribe that is not  
10 a party to an agency office reorganization compact  
11 entered into under this subsection, nothing in this  
12 section may limit or reduce the level of any service  
13 or funding that the Indian tribe is entitled to pursu-  
14 ant to applicable Federal law (including any contract  
15 that the Indian tribe is entitled to enter into pursu-  
16 ant to applicable Federal law).

17 (3) COORDINATION WITH AREA OFFICE  
18 PLANS.—Each agency office reorganization compact  
19 entered into by the Secretary under this subsection  
20 shall specify that in the event that the Secretary de-  
21 termines that the agency office reorganization com-  
22 pact is inconsistent with an area office reorganiza-  
23 tion compact entered into under section 101(c), the  
24 Secretary, in consultation with the Indian tribes that  
25 are parties to the compact, shall make such amend-

1       ments to the agency office reorganization compact  
2       entered into under this subsection as are necessary  
3       to ensure consistency with the applicable area office  
4       plan.

5       **SEC. 103. REORGANIZATION OF CENTRAL OFFICE.**

6       (a) IN GENERAL.—Notwithstanding any other provi-  
7       sion of law, not later than 120 days after the date of en-  
8       actment of this Act, the Secretary shall enter into negotia-  
9       tions with Indian tribes to develop a central office plan.  
10      In developing the plan, the Secretary shall enter into nego-  
11      tiations on an area-by-area basis with a representative  
12      from each of the Indian tribes in each area, to determine  
13      the appropriate allocation of personnel and funding made  
14      available to the central office to serve the area and agency  
15      offices and Indian tribes in each area office.

16      (b) CONTENT OF CENTRAL OFFICE PLAN.—

17           (1) IN GENERAL.—The central office plan shall  
18      provide for determinations by the Secretary, on the  
19      basis of the negotiations described in subparagraph  
20      (a), concerning—

21           (A) which portion of the funds made avail-  
22      able to the Secretary for the central office  
23      shall—

24           (i) be used to support the area and  
25      agency offices in each area; and

1 (ii) be considered excess funds that  
2 may be allocated directly to Indian tribes  
3 in each area pursuant to a formula devel-  
4 oped pursuant to paragraph (2)(J); and

5 (B) the allocation of the personnel of the  
6 central office to provide support to the area and  
7 agency offices.

8 (2) REALLOCATION OF FUNDS AND PERSON-  
9 NEL.—In developing the central office plan, to the  
10 extent that the Secretary and the Indian tribes do  
11 not exercise the option to maintain current organiza-  
12 tional structures, functions, or funding priorities, the  
13 central office plan shall provide, to the extent nec-  
14 essary to accommodate the determinations made  
15 under paragraph (1), for—

16 (A) the reorganization of the administra-  
17 tive structure of the central office;

18 (B) the reallocation of personnel (including  
19 determinations of office size and functions);

20 (C) the delegation of authority of the Sec-  
21 retary carried out through the central office to  
22 the Directors, Superintendents, or Indian  
23 tribes;

24 (D) transfers of functions;

25 (E) the specification of functions—

1 (i) retained by the central office; or

2 (ii) transferred to area offices, agency  
3 offices or Indian tribes;

4 (F) the issuance of waivers or other au-  
5 thorities by the Secretary so that functions and  
6 other responsibilities of the Secretary may be  
7 carried out by the central office or transferred  
8 to area offices, agency offices, or Indian tribes;

9 (G) the promulgation of revised regulations  
10 relating to the functions of the central office  
11 that are carried by the central office or trans-  
12 ferred to area offices, agency offices, or Indian  
13 tribes;

14 (H) the reordering of funding priorities;

15 (I) allocation formulas to provide for the  
16 remaining services to be provided to the area  
17 and agency offices and Indian tribes by the  
18 central office; and

19 (J) with respect to the allocation of funds  
20 to the area and agency offices and Indian tribes  
21 in each area, a formula, negotiated with the  
22 tribal representatives identified in subsection  
23 (a), for the allocation to the Indian tribes of a  
24 portion of excess funds described in paragraph  
25 (1)(A)(ii).

1 (c) CENTRAL OFFICE REORGANIZATION COM-  
2 PACTS.—

3 (1) IN GENERAL.—Not later than 60 days after  
4 the Secretary develops a central office plan pursuant  
5 to subsection (a), the Secretary shall, for each area  
6 office, enter into a central office reorganization com-  
7 pact with the Indian tribes in that area to imple-  
8 ment the central office plan (referred to in this sub-  
9 section as the “central office reorganization com-  
10 pact”). The Secretary may not implement the com-  
11 ponent of a central office plan relating to an area  
12 until such time as a majority of the Indian tribes in  
13 that area have entered into a central office reorga-  
14 nization compact. If a majority of the Indian tribes  
15 in an area do not enter into a central reorganization  
16 compact with the Secretary pursuant to this para-  
17 graph, the organizational structure, functions, and  
18 funding priorities of the central office relating to the  
19 area and agency offices and Indian tribes in that  
20 area and in effect at the time of the development of  
21 the central office plan shall remain in effect.

22 (2) COORDINATION WITH AREA AND AGENCY  
23 OFFICE PLANS.—Each central office reorganization  
24 compact entered into by the Secretary under this  
25 subsection shall specify that in the event the Sec-

1       retary determines that a central office reorganiza-  
2       tion compact is inconsistent with a related area of-  
3       fice reorganization compact entered into under sec-  
4       tion 101(c) or a related agency office reorganization  
5       compact entered into under section 102(c), the Sec-  
6       retary, in consultation with the Indian tribes that  
7       are parties to the central office reorganization com-  
8       pact, shall amend the compact to make such modi-  
9       fications as are necessary to ensure consistency with  
10      the applicable area or agency office plan.

11   **SEC. 104. SAVINGS PROVISIONS.**

12       (a) IN GENERAL.—All orders, determinations, rules,  
13   regulations, permits, agreements, grants, contracts, cer-  
14   tificates, licenses, registrations, privileges, and other ad-  
15   ministrative actions—

16           (1) that have been issued, made, granted, or al-  
17       lowed to become effective by the President, any Fed-  
18       eral agency or official thereof, or by a court of com-  
19       petent jurisdiction, in the performance of any func-  
20       tion that is transferred to Indian tribes pursuant to  
21       a reorganization compact that the Secretary enters  
22       into pursuant to section 101, 102, or 103; and

23           (2) that are in effect on the effective date of the  
24       reorganization compact, or were final before the ef-

1       fective date of the reorganization compact and are to  
2       become effective on or after such date;  
3 shall continue in effect according to their terms until  
4 modified, terminated, superseded, set aside, or revoked in  
5 accordance with law by the President, the Secretary, or  
6 other authorized official, a court of competent jurisdiction,  
7 or by operation of law.

8       (b) PROCEEDINGS NOT AFFECTED.—

9           (1) IN GENERAL.—The provisions of a reorga-  
10       nization compact that the Secretary enters into pur-  
11       suant to section 101, 102, or 103 shall not affect  
12       any proceedings, including notices of proposed rule-  
13       making, or any application for any license, permit,  
14       certificate, or financial assistance pending before the  
15       Bureau at the time the reorganization compact takes  
16       effect, with respect to the functions transferred by  
17       the reorganization compact.

18          (2) CONTINUATION OF PROCEEDINGS.—The  
19       proceedings and applications referred to in para-  
20       graph (1) shall be continued. Orders shall be issued  
21       in such proceedings, appeals shall be taken from  
22       such orders, and payments shall be made pursuant  
23       to such orders, as if the compact had not been en-  
24       tered into, and orders issued in any such proceed-  
25       ings shall continue in effect until modified, termi-

1 nated, superseded, or revoked by a duly authorized  
2 official, by a court of competent jurisdiction, or by  
3 operation of law.

4 (3) STATUTORY CONSTRUCTION.—Nothing in  
5 this subsection shall be deemed to prohibit the dis-  
6 continuance or modification of any such proceeding  
7 under the same terms and conditions and to the  
8 same extent that such proceeding could have been  
9 discontinued or modified if this title had not been  
10 enacted.

11 (c) NONABATEMENT OF ACTIONS.—No suit, action,  
12 or other proceeding commenced by or against the Bureau  
13 or by or against any individual in the official capacity of  
14 such individual as an officer of the Bureau shall abate by  
15 reason of the enactment of this title.

16 **SEC. 105. ADDITIONAL CONFORMING AMENDMENTS.**

17 (a) RECOMMENDED LEGISLATION.—After consulta-  
18 tion with Indian tribes, the appropriate committees of the  
19 Congress and the Director of the Office of Management  
20 and Budget, the Secretary shall prepare and submit to the  
21 Congress recommended legislation containing technical  
22 and conforming amendments to reflect the changes made  
23 pursuant to this title.

24 (b) SUBMISSION TO THE CONGRESS.—Not later than  
25 120 days after the effective date of this title, the Secretary

1 shall submit to the Congress the recommended legislation  
2 referred to in subsection (a).

3 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums  
5 as may be necessary to carry out this title.

6 **SEC. 107. EFFECTIVE DATE.**

7 This title shall take effect on the date of enactment  
8 of this Act.

9 **SEC. 108. SEPARABILITY.**

10 If a provision of this title or its application to any  
11 person or circumstance is held invalid, neither the remain-  
12 der of this title nor the application of the provision to  
13 other persons or circumstances shall be affected.

14 **SEC. 109. SUSPENSION OF CERTAIN ADMINISTRATIVE**  
15 **ACTIONS.**

16 (a) IN GENERAL.—Notwithstanding any other provi-  
17 sion of law, during the 2-year period beginning on the date  
18 of enactment of this Act, the Secretary shall suspend the  
19 implementation of all administrative activities that affect  
20 the Bureau of Indian Affairs associated with reinventing  
21 government, national performance review, or other  
22 downsizing initiatives.

23 (b) CONSIDERATION OF COMPACTS.—During the pe-  
24 riod specified in subsection (a), the reorganization com-  
25 pacts entered into under this title shall be deemed to sat-

1 isfy the goals of the initiatives referred to in subsection  
2 (a).

3 **SEC. 110. STATUTORY CONSTRUCTION.**

4 Nothing in this title may be construed to alter or di-  
5 minish the Federal trust responsibility to Indian tribes,  
6 individual Indians, or Indians with trust allotments.

7 **TITLE II—AMENDMENT TO THE**  
8 **INDIAN SELF-DETERMINA-**  
9 **TION ACT**

10 **SEC. 201. BUDGET DEVELOPMENT.**

11 The Indian Self-Determination Act (25 U.S.C. 450f  
12 et seq.), as amended by the Tribal Self-Governance Act  
13 of 1994, is amended by adding at the end the following  
14 new title:

15 **“TITLE V—BUDGET**  
16 **DEVELOPMENT**

17 **“SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DE-**  
18 **VELOPMENT OF BUDGET REQUESTS.**

19 “(a) BUDGET REQUESTS FOR THE BUREAU OF IN-  
20 DIAN AFFAIRS.—Notwithstanding any other provision of  
21 law, not later than 120 days after the date of enactment  
22 of this title, the Secretary of the Interior shall establish  
23 a program—

24 “(1) to provide information to Indian tribes  
25 concerning the development of budget requests for

1 the Bureau of Indian Affairs that are submitted to  
2 the President by the Secretary of the Interior for in-  
3 clusion in the annual budget of the President sub-  
4 mitted to the Congress pursuant to section 1108 of  
5 title 31, United States Code; and

6 “(2) to ensure, to the maximum extent prac-  
7 ticable, the participation by each Indian tribe in the  
8 development of the budget requests referred to in  
9 paragraph (1).

10 “(b) BUDGET REQUESTS FOR THE INDIAN HEALTH  
11 SERVICE.—Notwithstanding any other provision of law,  
12 not later than 120 days after the date of enactment of  
13 this title, the Secretary of Health and Human Services  
14 shall establish a program—

15 “(1) to provide information to Indian tribes  
16 concerning the development of budget requests by  
17 the Secretary of Health and Human Services for the  
18 Indian Health Service that are submitted to the  
19 President by the Secretary for inclusion in the an-  
20 nual budget referred to in subsection (a)(1); and

21 “(2) to ensure, to the maximum extent prac-  
22 ticable, the participation by each Indian tribe in the  
23 development of the budget requests referred to in  
24 paragraph (1).

25 “(c) REQUIREMENTS FOR PROGRAMS.—

1           “(1) IN GENERAL.—Each program established  
2           under this section shall, to the maximum extent  
3           practicable—

4                   “(A) provide for the estimation of—

5                           “(i) the funds authorized to be appro-  
6                           priated on an annual basis for the benefit  
7                           of Indian tribes; and

8                           “(ii) for each Indian tribe, the portion  
9                           of the funds described in clause (i) that  
10                          will be provided for the benefit of the In-  
11                          dian tribe;

12                   “(B) provide, for each Indian tribe—

13                           “(i) the opportunity to establish prior-  
14                           ities for using the estimated funds de-  
15                           scribed in subparagraph (A)(ii); and

16                           “(ii) flexibility in the design of tribal  
17                           and Federal programs that receive Federal  
18                           funds to best meet the needs of the com-  
19                           munity served by the Indian tribe; and

20                   “(C) provide for the collection and dissemi-  
21                   nation of information that is necessary for ef-  
22                   fective planning, evaluation, and reporting by  
23                   the Secretary of the Interior or the Secretary of  
24                   Health and Human Services and Indian tribes  
25                   concerning the comparative social and public

1 health conditions of Indian communities (as de-  
2 fined and determined by the Secretary of the  
3 Interior and the Secretary of Health and  
4 Human Services) at local, regional, and na-  
5 tional levels.

6 “(2) DUTIES OF THE SECRETARIES.—In carry-  
7 ing out the programs established under this section,  
8 the Secretary of the Interior and the Secretary of  
9 Health and Human Services shall—

10 “(A) use any information provided by In-  
11 dian tribes concerning the priorities referred to  
12 in paragraph (1)(B);

13 “(B) support the creation of stable recur-  
14 ring base funding (as defined and determined  
15 by each such Secretary) for each Indian tribe;

16 “(C) seek to maintain stability in the plan-  
17 ning and allocation of the amounts provided for  
18 in the budget of the Bureau of Indian Affairs  
19 and the Indian Health Service for Indian tribes;  
20 and

21 “(D) assess the Federal programs or as-  
22 sistance provided to each Indian tribe to deter-  
23 mine—

1           “(i) the relative need for providing  
2           Federal funds to carry out each such pro-  
3           gram; and

4           “(ii) the amount of recurring base  
5           funding available to each Indian tribe to  
6           carry out each such program.

7           “(3) CONTRACTS, GRANTS, AND ANNUAL FUND-  
8           ING AGREEMENTS.—To provide, to the maximum ex-  
9           tent practicable, for the full participation by the gov-  
10          erning bodies of Indian tribes on an effective govern-  
11          ment-to-government basis in carrying out the collec-  
12          tion and sharing of information under this section,  
13          the Secretary of the Interior or the Secretary of  
14          Health and Human Services may—

15           “(A) enter into a self-determination con-  
16           tract with an Indian tribe or make a grant to  
17           an Indian tribe pursuant to section 102 or 103;

18           “(B) with respect to the Secretary of  
19           Health and Human Services, enter into a fund-  
20           ing agreement with a participating Indian tribe  
21           pursuant to title III; and

22           “(C) with respect to the Secretary of the  
23           Interior, enter into a funding agreement with a  
24           participating Indian tribe pursuant to title IV.

1   **“SEC. 502. ASSESSMENT METHODOLOGY.**

2       “(a) IN GENERAL.—Not later than 180 days after  
3 the date of enactment of this title, the Secretary shall,  
4 in cooperation with Indian tribes, and in accordance with  
5 the negotiated rulemaking procedures under subchapter  
6 III of chapter 5 of title 5, United States Code, promulgate  
7 standardized assessment methodologies to be used in car-  
8 rying out any budget determination for the Bureau of In-  
9 dian Affairs concerning the levels of funding that are nec-  
10 essary to fund each program area (as defined and deter-  
11 mined by the Secretary) of the Bureau.

12       “(b) PARTICIPATION BY INDIAN TRIBES.—In carry-  
13 ing out subsection (a), the Secretary shall take such action  
14 as may be necessary to ensure, to the maximum extent  
15 practicable, the direct and active participation of Indian  
16 tribes at the local, regional, and national levels in the ne-  
17 gotiated rulemaking process specified in subchapter III of  
18 chapter 5 of title 5, United States Code.

19       “(c) COMMITTEE.—

20           “(1) COMPOSITION.—The negotiated rule-  
21 making committee established pursuant to section  
22 565 of title 5, United States Code, to carry out sub-  
23 section (a) shall only be comprised of—

24           “(A) individuals who represent the Federal  
25           Government; and

1           “(B) individuals who represent Indian  
2           tribes.

3           “(2) REPRESENTATION BY INDIAN TRIBES.—A  
4           majority of the members of the committee referred  
5           to in paragraph (1) shall be individuals who rep-  
6           resent Indian tribes.

7           “(d) ADAPTATION OF PROCEDURES.—The Secretary  
8           shall adapt the negotiated rulemaking procedures carried  
9           out under this section in the same manner as the Sec-  
10          retary adapts, in accordance with section 407(c), the pro-  
11          cedures carried out pursuant to section 407.

12       **“SEC. 503. REPORTS TO THE CONGRESS.**

13          “(a) REPORT ON BUDGET NEEDS.—Not later than  
14          the earliest date after the date of promulgation of the reg-  
15          ulations under section 502 on which the Secretary of the  
16          Interior submits a budget request to the President for in-  
17          clusion in the annual budget of the President submitted  
18          to the Congress pursuant to section 1108 of title 31, Unit-  
19          ed States Code, and annually thereafter, the Secretary  
20          shall prepare and submit to the President a report that—

21               “(1) describes the standardized methodologies  
22               that are the subject of the regulations promulgated  
23               pursuant to section 502; and

24               “(2) includes—

1           “(A) for each program area of the Bureau  
2 of Indian Affairs, an assessment of the level of  
3 funding that is necessary to fund the program  
4 area; and

5           “(B) for each Indian tribe served by a pro-  
6 gram area referred to in paragraph (2)—

7               “(i) an assessment of the level of  
8 funding that is necessary for each Indian  
9 tribe served by the program area;

10              “(ii) the total amount of funding nec-  
11 essary to cover all program areas with re-  
12 spect to which the tribe receives services  
13 (as determined by taking the aggregate of  
14 the applicable amounts determined under  
15 paragraph (3)); and

16              “(iii) a breakdown, for each program  
17 area with respect to which the Indian tribe  
18 receives service, of the amount determined  
19 under clause (ii).

20 **“SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

21           ““There are authorized to be appropriated such sums  
22 as may be necessary to carry out this title.”.

1 **TITLE III—REFORM OF THE REG-**  
2 **ULATIONS OF THE BUREAU**  
3 **OF INDIAN AFFAIRS**

4 **SEC. 301. BIA MANUAL.**

5 (a) IN GENERAL.—Not later than 180 days after the  
6 date of enactment of this Act, the Secretary shall—

7 (1) conduct a review of all provisions of the  
8 BIA Manual;

9 (2) promulgate as proposed regulations those  
10 provisions of the BIA Manual that the Secretary  
11 deems necessary for the efficient implementation of  
12 the Federal functions retained by the Bureau under  
13 the reorganization compacts authorized by this Act;  
14 and

15 (3) revoke all provisions of the BIA Manual  
16 that are not promulgated as proposed regulations  
17 under paragraph (2).

18 (b) CONSULTATION WITH INDIAN TRIBES.—In car-  
19 rying out subsection (a), the Secretary shall, to the maxi-  
20 mum extent practicable, consult with Indian tribes in such  
21 manner as to provide for the full participation of Indian  
22 tribes.

23 **SEC. 302. TASK FORCE.**

24 (a) ESTABLISHMENT OF TASK FORCE.—

1           (1) IN GENERAL.—Not later than 90 days after  
2           the date of enactment of this Act, the Secretary  
3           shall establish a task force on regulatory reform (re-  
4           ferred to in this section as the “task force”).

5           (2) DUTIES.—The task force shall—

6                   (A) review the regulations under title 25,  
7           Code of Federal Regulations; and

8                   (B) make recommendations concerning the  
9           revision of the regulations.

10          (3) MEMBERSHIP.—The task force shall be  
11          composed of 16 members, including 12 members  
12          who are representatives of Indian tribes from each  
13          of the 12 areas served by area offices.

14          (4) INITIAL MEETING.—Not later than 60 days  
15          after the date on which all members of the task  
16          force have been appointed, the task force shall hold  
17          its first meeting.

18          (5) MEETINGS.—The task force shall meet at  
19          the call of the Chairperson.

20          (6) QUORUM.—A majority of the members of  
21          the task force shall constitute a quorum, but a lesser  
22          number of members may hold hearings.

23          (7) CHAIRPERSON.—The task force shall select  
24          a Chairperson from among its members.

25          (b) REPORTS.—

1           (1) REPORTS TO SECRETARY.—The task force  
2       shall submit to the Secretary such reports as the  
3       Secretary determines to be appropriate.

4           (2) REPORTS TO THE CONGRESS AND TO IN-  
5       DIAN TRIBES.—In addition to submitting the reports  
6       described in paragraph (1), not later than 120 days  
7       after its initial meeting, the task force shall prepare,  
8       and submit to the Congress and to the governing  
9       body of each Indian tribe, a report that includes—

10               (A) the findings of the task force concern-  
11               ing the review conducted pursuant to subsection  
12               (a)(2)(A); and

13               (B) the recommendations described in sub-  
14               section (a)(2)(B).

15       (c) POWERS OF THE TASK FORCE.—

16           (1) HEARINGS.—The task force may hold such  
17       hearings, sit and act at such times and places, take  
18       such testimony, and receive such evidence as the  
19       task force considers advisable to carry out the duties  
20       of the task force specified in subsection (a)(2).

21           (2) INFORMATION FROM FEDERAL AGENCIES.—  
22       The task force may secure directly from any Federal  
23       department or agency such information as the task  
24       force considers necessary to carry out the duties of  
25       the task force specified in subsection (a)(2).

1           (3) POSTAL SERVICES.—The task force may  
2       use the United States mails in the same manner and  
3       under the same conditions as other departments and  
4       agencies of the Federal Government.

5           (4) GIFTS.—The task force may accept, use,  
6       and dispose of gifts or donations of services or prop-  
7       erty.

8       (d) TASK FORCE PERSONNEL MATTERS.—

9           (1) COMPENSATION OF MEMBERS.—Each mem-  
10      ber of the task force who is not an officer or em-  
11      ployee of the Federal Government shall be com-  
12      pensated at a rate equal to the daily equivalent of  
13      the annual rate of basic pay prescribed for level IV  
14      of the Executive Schedule under section 5315 of title  
15      5, United States Code, for each day (including travel  
16      time) during which such member is engaged in the  
17      performance of the duties of the task force. All  
18      members of the task force who are officers or em-  
19      ployees of the United States shall serve without com-  
20      pensation in addition to that received for their serv-  
21      ices as officers or employees of the United States.

22          (2) TRAVEL EXPENSES.—The members of the  
23      task force shall be allowed travel expenses, including  
24      per diem in lieu of subsistence, at rates authorized  
25      for employees of agencies under subchapter I of

1 chapter 57 of title 5, United States Code, while  
2 away from their homes or regular places of business  
3 in the performance of services for the task force.

4 (3) STAFF.—

5 (A) IN GENERAL.—The Chairperson of the  
6 task force may, without regard to the civil serv-  
7 ice laws, appoint and terminate such personnel  
8 as may be necessary to enable the task force to  
9 perform its duties.

10 (B) PROCUREMENT OF TEMPORARY AND  
11 INTERMITTENT SERVICES.—The Chairperson of  
12 the task force may procure temporary and  
13 intermittent service under section 3109(b) of  
14 title 5, United States Code, at rates for individ-  
15 uals that do not exceed the daily equivalent of  
16 the annual rate of basic pay prescribed for level  
17 V of the Executive Schedule under section 5316  
18 of such title.

19 (e) TERMINATION OF TASK FORCE.—The task force  
20 shall terminate 30 days after the date on which the task  
21 force submits its reports to the Congress and to Indian  
22 tribes under subsection (b)(2).

23 (f) EXEMPTION FROM FEDERAL ADVISORY COMMIT-  
24 TEE ACT.—All of the activities of the task force conducted

1 under this title shall be exempt from the Federal Advisory  
 2 Committee Act (5 U.S.C. App.).

3 (g) PROHIBITION.—Beginning on the date of enact-  
 4 ment of this Act, the Secretary may not—

5 (1) promulgate any unpublished regulation or  
 6 agency guidance that affects Indian tribes; or

7 (2) impose any nonregulatory requirement that  
 8 affects Indian tribes.

9 **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums  
 11 as may be necessary to carry out this title.

○

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S 814 IS—3